

JUN 16 2011

FILED

BEFORE THE DEPARTMENT OF INSURANCE  
STATE OF NEBRASKA

STATE OF NEBRASKA	)	
DEPARTMENT OF INSURANCE,	)	
	)	
PETITIONER,	)	CONSENT ORDER
	)	
VS.	)	
	)	
BANKERS LIFE AND CASUALTY	)	CAUSE NO. C-1890
COMPANY,	)	
	)	
RESPONDENT.	)	

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its representative, Martin W. Swanson and Bankers Life and Casualty Company, ("Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb. Rev. Stat. §44-101.01, §44-303 and §44-1539 et seq., and Title 210 NAC Ch. 61.

2. Respondent is an Illinois domiciled insurer holding a certificate of authority to engage in the business of insurance in the State of Nebraska.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Bankers Life and Casualty Company, Cause Number C- 1890 on April 27, 2011. A copy of the petition was served upon the Respondent by serving a copy upon Respondent's agent for service registered with the Department by certified mail, return receipt requested.

2. The petition alleges that Respondent violated, on multiple occasions, Neb. Rev. Stat. §§ 44-1539, 44-1540(2), 44-1540(4), 44-1540(7), 44-1540(8), and 44-5905, in addition to Title 210 NAC Ch. 61 §§004.02, 006.01, 008.01, 008.02, 008.03, 008.04 and 008.08 as a result of the following conduct:

- a. On August 25, 2010, a complaint, identified as Department File Number 10-1189, was filed with the Department. The complaint alleged that Respondent would not pay for assisted care services.
- b. On August 27, 2010, Scott Zager (Zager), insurance investigator with the Department, wrote the Respondent requesting several pieces of information to aid in the investigation of the allegation by Complainant.
- c. On August 31, 2010, Zager was informed by a representative for Complainant that another claim was denied by Respondent.
- d. On September 23, 2010, Respondent responded to Zager's August 7, 2010 inquiry. Starting in February, 2010, Respondent started to receive claim requests. The claims were denied in March.
- e. On March 5, 2010, Respondent received a call from Complainant's representative and explained the appeal process to him. On March 23, 2010, an appeal was filed by Complainant. The claim was denied on appeal on April 6, 2010.
- f. On May 20, 2010 Respondent received new information regarding the services provide to Complainant as of May 10, 2010. On June 1, 2010, Respondent acknowledged receipt of that information.
- g. On June 4, 2010, Pathfinder House, the facility where Complainant was receiving services, contacted Respondent regarding the status of the claim. Respondent said to allow for more time.
- h. On June 23, 2010, Respondent was again contacted and was asked about the status of the claim. The caller was told by Respondent that the claim was being reviewed and to allow for more time.
- i. On June 29, 2010, Pathfinder House contacted Respondent and again asked about the status of the claim received May 20, 2010. Respondent said that the claim was under review and to allow for more time.
- j. On July 9, 2010, Pathfinder House contacted Respondent. In this instance, Respondent stated that the review had ended in error and that they would reopen the case and have it expedited.

- k. On July 12, 2010, Complainant's family contacted Respondent again regarding the May 20, 2010 claim. Respondent advised them that the claim "had ended in error" and to allow an additional 7-10 business days.
- l. On August 4, 2010, Respondent was contacted by Complainant's family and Respondent told them that the claim was denied because Complainant was not found chronically ill. Additionally, Complainant received copies of bills from May, June, and July, 2010. On August 19, 2010, Respondent denied the aforementioned claims for May, June, and July, 2010.
- m. On August 24, 2010, Complainant's family contacted Respondent and asked them if they had examined the May 20, 2010 documentation that they had previously submitted. On August 31, 2010, Complainant's family indicated that they would contact the Department.
- n. On September 6, 2010, Respondent received billing for August, 2010. Respondent denied the August, 2010 claim.
- o. Respondent admitted in their September 23, 2010 letter to the Department that they "...may have overlooked the correspondence submitted May 20, 2010."
- p. In the September 23, 2010 letter, Respondent included a letter of September 16, 2010 to Complainant providing an incorrect address for the Department of Insurance for purposes of filing a complaint with the Department.
- q. On September 28, 2010, Zager wrote to Respondent asking several questions regarding the September 23, 2010 letter. Zager had noted that there was no documentation sent to Complainant regarding the May 20<sup>th</sup> appeal that "ended in error" and that there was no written denial of an appeal, as required under Nebraska law. Moreover, there seemed to be a large amount of documentation that was missing or not provided to the Department.
- r. On October 1, 2010, Respondent approved benefits for the Pathfinder House, as of April 7, 2010, based upon the information supplied back on May 20, 2010. This constituted a delay of over four months for the April claims and additional delay for the other claims, which were denied by Respondent, of over fifteen days.
- s. In a response to Zager's September 28, 2010 letter, Respondent admitted that "due to human error the information [the May 20<sup>th</sup> information submitted by Complainant] was not forwarded to be reviewed."
- t. Respondent further admitted that it could not find a copy of the July 12, 2010 phone call and communication stemming there from, despite admitting earlier that there was such a call.

- u. On December 9, 2010, Zager contacted Respondent and asked about the lack of a written denial or communication following the July 9, 2010 phone call and the promise that the issue would be "expedited." Zager also asked about the apparent failure to document and retain records of the phone conversation of July 12, 2010.
- v. On December 28, 2010, Respondent responded and admitted that the May 20, 2010 "closed in error" document should have been forwarded to the appropriate department, but was not and, as such, there are no copies of the communications.

3. Respondent was informed of the right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving its right to a public hearing, Respondent also waives its right to confrontation of witnesses, production of evidence, and judicial review.

4. Respondent does not admit or deny that it violated, on multiple occasions, Neb. Rev. Stat. §§ 44-1539, 44-1540(2), 44-1540(4), 44-1540(7), 44-1540(8), and 44-5905, in addition to Title 210 NAC Ch. 61 §§004.02, 006.01, 008.01, 008.02, 008.03, 008.04 and 008.08 but in order to settle this matter Respondent will adhere to the terms and conditions of the consent order.

### CONCLUSIONS OF LAW

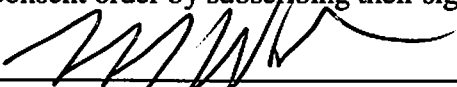
The conduct of Respondent, as alleged above, constitutes violations, on multiple occasions, Neb. Rev. Stat. §§ 44-1539, 44-1540(2), 44-1540(4), 44-1540(7), 44-1540(8), and 44-5905, in addition to Title 210 NAC Ch. 61 §§004.02, 006.01, 008.01, 008.02, 008.03, 008.04 and 008.08.

### CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, that Respondent shall pay an administrative fine in the amount of five thousand dollars (\$5,000). Respondent shall pay the \$5,000 fine within thirty days of the approval of this consent order by the Director or his designee. If Respondent fails to pay the \$5,000 fine within thirty days after approval of the consent order by the Director or his designee, Respondent shall be subject to additional fines

and penalties. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondent or the Department to make application for such further orders as may be necessary.

In witness of their intention to be bound by this Consent Order, each party has executed this consent order by subscribing their signatures below.

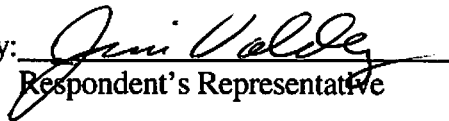


Martin W. Swanson, #20795  
Department of Insurance  
941 O Street, Suite 400  
Lincoln, Nebraska 68508  
(402) 471-2201

15 JUNE 11

Date

Bankers Life and Casualty Company

By:   
Respondent's Representative

June 14, 2011  
Date

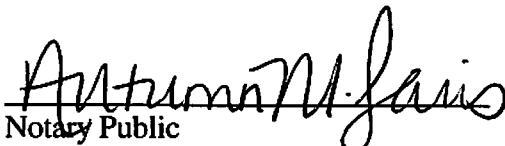
State of IL )

) ss.

County of COOK )

On this 14 day of June, 2011, Jim Valdez, personally appeared before me, on behalf of Bankers Life and Casualty Company, and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.



  
Notary Public

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the  
Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs.  
Bankers Life and Casualty Company, Cause No. C-1890.

STATE OF NEBRASKA  
DEPARTMENT OF INSURANCE

Bruce R. Ramge  
BRUCE R. RAMGE  
Director of Insurance

6-16-2011  
Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to the Respondent, 600  
West Chicago Avenue, Chicago, IL, 60654-2800, by certified mail, return receipt requested, on this

16<sup>th</sup> day of June, 2011.

Leacy A. Smith